



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL LEE,

Plaintiff,

- against -

WARDEN CARTER, N.T.C./D.O.C./V.C.B.C.; :  
CAPTAIN GUERRA, N.T.C./D.O.C./V.C.B.C.; :  
CAPTAIN JOHN DOE, N.T.C./D.O.C./V.C.B.C.; :  
CAPTAIN HORTON, N.T.C./D.O.C./V.C.B.C., :

Defendants.  
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21-CV-8629 (PAE) (RWL)

## ORDER OF SERVICE

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

Plaintiff, currently detained in the Vernon C. Bain Center (VCBC) on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights. By order dated November 2, 2021, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).<sup>1</sup>

## DISCUSSION

### A. Waiver of Service

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that C. Carter, VCBC Warden; Captain Horton, VCBC Facility Storehouse Captain; and Captain Guerra, VCBC 3-AA Shift Supervisor, waive service of summons.

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. See 28 U.S.C. § 1915(b)(1).

**B. John Doe Defendant**

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York City Department of Correction to identify John Doe, VCBC Facility Shift Supervising Captain. It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the New York City Department of Correction, must ascertain the identity and badge number of the John Doe whom Plaintiff seeks to sue here and the address where the defendant may be served.<sup>2</sup> The New York City Law Department must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days of receiving this information, Plaintiff must file an amended complaint naming the John Doe defendant. The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order asking Defendant to waive service.

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<sup>2</sup> If the Doe defendant is a current or former DOC employee or official, the New York City Law Department should note in the response to this order that an electronic request for a waiver of service can be made under the e-service agreement for cases involving DOC defendants, rather than by personal service at a DOC facility. If the Doe defendant is not a current or former DOC employee or official, but otherwise works or worked at a DOC facility, the New York City Law Department must provide a residential address where the individual may be served.

## CONCLUSION

The Clerk of Court is directed to electronically notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that Defendants C. Carter, VCBC Warden; Captain Horton, VCBC Facility Storehouse Captain; and Captain Guerra, VCBC 3-AA Shift Supervisor, waive service of summons.

The Clerk of Court is directed to mail a copy of this order and the complaint to New York City Law Department at: 100 Church Street, New York, New York 10007.

An "Amended Complaint" form is attached to this order.

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

SO ORDERED.



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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: November 4, 2021  
New York, New York

Copies transmitted this date to all counsel of record. The Clerk's Office is respectfully directed to mail a copy of this Order to Plaintiff pro se and note service on the docket:

Michael Lee  
#3492001663  
V.C.B.C.  
1 Halleck Street  
Bronx, NY 10474